

Metadata element	Expressed according to HL7 CDA R2 requirements (where applicable)	Notes
	</representedOrganization>	

### III. Additional Questions

To better inform future proposals, we seek public comment on the following specific questions. Commenters are also welcome to provide feedback on any of the considerations and expectations we expressed above even where a specific question is not asked.

*Question 13: With respect to the first use case identified by the HIT Policy Committee for when metadata should be assigned (i.e., a patient obtaining their summary care record from a health care provider), how difficult would it be for EHR technology developers to include this capability in EHR technology according to the standards discussed above in order to support meaningful use Stage 2?*

*Question 14: Assuming we were to require that EHR technology be capable of meeting the first use case identified by the HIT Policy Committee, how much more difficult would it be to design EHR technology to assign metadata in other electronic exchange scenarios in order to support meaningful use Stage 2? Please identify any difficulties and the specific electronic exchange scenario(s).*

*Question 15: Building on Question 14, and looking more long term, how would the extension of metadata standards to other forms of electronic health information exchange affect ongoing messaging and transactions? Are there other potential uses cases (e.g., exchanging information for treatment by a health care provider, for research, or public health) for metadata that we should be considering? Would the set of metadata currently under consideration support these different use cases or would we need to consider other metadata elements?*

*Question 16: Are there other metadata categories besides the three (patient identity, provenance, and privacy) we considered above that should be included? If so, please identify the metadata elements that would be within the category or categories, your rationale for including them, and the syntax that should be used to represent the metadata element(s).*

*Question 17: In addition to the metadata standards and data elements we are considering, what other implementation factors or contexts should be considered as we think about implementation specifications for these metadata standards?*

*Question 18: Besides the HL7 CDA R2 header, are there other standards that we should consider that can provide an equivalent level of syntax and specificity? If so, do these alternative standards offer any benefits with regard to intellectual property and licensing issues?*

*Question 19: The HL7 CDA R2 header contains additional "structural" XML elements that help organize the header and enable it to be processed by a computer. Presently, we are considering leveraging the HL7 CDA R2 header insofar as the syntax requirement it expresses relate to a metadata element we are considering. Should we*

*consider including as a proposed requirement the additional structures to create a valid HL7 CDA R2 header?*

*Question 20: Executive Order (EO) 13563 entitled "Improving Regulation and Regulatory Review" directs agencies "to the extent feasible, [to] specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt;" (EO 13563, Section 1(b)(4)). Besides the current standards we are considering, are there performance-oriented standards related to metadata that we should consider?*

Dated: August 4, 2011.

**Kathleen Sebelius,**  
Secretary.

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Part 42

[FAR Case 2009-042; Docket 2011-0087,  
Sequence 1]

RIN 9000-AM09

### Federal Acquisition Regulation; Documenting Contractor Performance; Correction

**AGENCY:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule; correction and extension of comment date.

**SUMMARY:** This document corrects the proposed changes published in the **Federal Register** of June 28, 2011, regarding the proposed rule for Documenting Contractor Performance and extends the comment closing date by 30 days.

**DATES:** The comment period for the proposed rule published June 28, 2011, at 76 FR 37704, is extended. Comments will be received until September 8, 2011.

**FOR FURTHER INFORMATION CONTACT:** Mr. Curtis E. Glover, Sr., Procurement Analyst, at (202) 501-1448. Please cite FAR Case 2009-042.

**SUPPLEMENTARY INFORMATION:** This document corrects the proposed

changes published in the **Federal Register** of June 28, 2011, regarding the proposed rule for Documenting Contractor Performance (75 FR 37704) and extends the comment closing date by 30 days. Text already in the Federal Acquisition Regulation was inadvertently omitted from the restatement of section 42.1503. The text was not intended to be removed, and is being restored at 42.1503(d) and 42.1503(h)(1) in the proposed rule.

#### Correction

In the proposed rule FR Doc. 2011-16169, beginning on page 37705, in 3rd column, in the issue of Tuesday, June 28, 2011, make the following correction, in the instructions of section 42.1503.

#### 42.1503 [Corrected]

1. Section 42.1503 is corrected to read as follows:

#### 42.1503 Procedures.

(a) Agency procedures for the past performance evaluation system shall generally provide for input to the evaluations from the technical office, contracting office and, where appropriate, end users of the product or service. Agency procedures shall identify and assign past performance evaluation roles and responsibilities to those individuals responsible for preparing interim and final performance evaluations (e.g., contracting officer representatives and program managers). If agency procedures do not specify the individuals responsible for past performance evaluation duties, the contracting officer will remain responsible for this function. Those individuals identified may obtain information for the evaluation of performance from the program office, administrative contracting office, audit office, end users of the product or service, and any other technical or business advisor, as appropriate. Interim evaluations shall be prepared on an annual basis, in accordance with agency procedures.

(b)(1) The evaluation report should reflect how the contractor performed. The report should include clear relevant information that accurately depicts the contractor's performance, and be based on objective facts supported by program and contract performance data. The evaluations should be tailored to the contract type, size, content, and complexity of the contractual requirements.

(2) Evaluation factors for each assessment shall include, at a minimum, the following:

- (i) Technical or Quality.
- (ii) Cost Control (as applicable).
- (iii) Schedule/Timeliness.
- (iv) Management or Business

Relations.

(v) Small Business Subcontracting (as applicable).

(3) These evaluation factors, including subfactors, may be tailored, however, each factor and subfactor shall be evaluated and supporting narrative provided.

(4) Each evaluation factor, as listed in paragraph (b)(2) of this section, shall be rated in accordance with a five scale rating system (e.g., exceptional, very good, satisfactory, marginal, and unsatisfactory). Rating definitions shall reflect those contained in the CPARS Policy Guide available at <http://www.cpars.gov/>.

(c)(1) When the contract provides for incentive fees, the incentive-fee contract performance evaluation shall be entered into CPARS. (See 16.401(f).)

(2) When the contract provides for award fee, the award fee-contract performance adjectival rating as described in 16.401(e)(3) shall be entered into CPARS.

(d) Agency evaluations of contractor performance, including both negative and positive evaluations, prepared under this subpart shall be provided to the contractor as soon as practicable after completion of the evaluation. Contractors shall be given a minimum of 30 days to submit comments, rebutting statements, or additional information. Agencies shall provide for review at a level above the contracting officer to consider disagreements between the parties regarding the evaluation. The ultimate conclusion on the performance evaluation is a decision of the contracting agency. Copies of the evaluation, contractor response, and review comments, if any, shall be retained as part of the evaluation. These evaluations may be used to support future award decisions, and should therefore be marked "Source Selection Information". Evaluation of Federal Prison Industries (FPI) performance may be used to support a waiver request (see 8.604) when FPI is a mandatory source in accordance with subpart 8.6. The completed evaluation shall not be released to other than Government personnel and the contractor whose performance is being evaluated during the period the information may be used to provide source selection information. Disclosure of such information could cause harm both to the commercial interest of the Government and to the

competitive position of the contractor being evaluated as well as impede the efficiency of Government operations. Evaluations used in determining award or incentive fee payments may also be used to satisfy the requirements of this subpart. A copy of the annual or final past performance evaluation shall be provided to the contractor as soon as it is finalized.

(e) Agencies shall require—

(1) Performance issues be documented promptly during contract performance to ensure critical details are included in the evaluation;

(2) The award fee determination, if required, align with the contractor's performance and be reflected in the evaluation;

(3) Timely assessments and quality data (see the quality standards in the CPARS Policy Guide at <http://www.cpars.gov/>) in the contractors past performance evaluation; and

(4) Frequent assessment (e.g., monthly or quarterly) of agency compliance with the reporting requirements in 42.1502, so agencies can readily identify delinquent past performance reports and monitor their reports for quality control.

(f) Agencies shall prepare and submit all past performance reports electronically into the CPARS at <http://www.cpars.gov/>. These reports are transmitted to the Past Performance Information Retrieval System (PPIRS) at <http://www.ppirs.gov/>. Past performance reports for classified contracts and special access programs shall not be reported in CPARS, but will be reported as stated in this subpart and in accordance with agency procedures.

Agencies shall ensure that appropriate management and technical controls are in place to ensure that only authorized personnel have access to the data and the information safeguarded in accordance with 42.1503(b).

(g) Agencies shall use the past performance information in PPIRS that is within the last three years (six for construction and architect-engineer contracts) and information contained in the Federal Awardee Performance and Integrity Information System (FAPIIS), e.g., termination for default or cause.

(h) *Other contractor performance information.* (1) Agencies shall ensure information is reported in the FAPIIS module of CPARS within 3 working days after a contracting officer—

(i) Issues a final determination that a contractor has submitted defective cost or pricing data;

(ii) Makes a subsequent change to the final determination concerning defective cost or pricing data pursuant to 15.407-1(d);

(iii) Issues a final termination for cause or default notice; or

(iv) Makes a subsequent withdrawal or a conversion of a termination for default to a termination for convenience.

(2) Agencies shall establish CPARS focal points who will register users to report data into the FAPIIS module of CPARS (available at <http://www.cpars.gov/>, then select FAPIIS).

(3) The primary duties of the CPARS focal point is to administer CPARS and FAPIIS access. Agencies must also establish PPIRS group managers. The primary duties of the PPIRS group managers are to grant or deny access to PPIRS. The CPARS Reference Material, on the Web site, includes reporting instructions.

Dated: August 3, 2011.

**Rodney P. Lantier,**

*Deputy Director for Acquisition Policy.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R2-ES-2011-0057; MO 92210-0-0008 B2]

#### Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To List the Nueces River and Plateau Shiners as Threatened or Endangered

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 12-month petition finding.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list the Nueces River shiner (*Cyprinella* sp.) and plateau shiner (*Cyprinella lepida*) as threatened or endangered and to designate critical habitat under the Endangered Species Act of 1973, as amended (Act). After review of all available scientific and commercial information, we find that listing the Nueces River and plateau shiners is not warranted at this time. However, we ask the public to submit to us any new information that becomes available concerning the threats to the Nueces River and plateau shiners or their habitats at any time.

**DATES:** The finding announced in this document was made on August 9, 2011.

**ADDRESSES:** This finding is available on the Internet at <http://>